

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.569 OF 1995

The State of Maharashtra ...Appellant

Versus

Shaikh Abdul Rashid Ibrahim and Anr. ...Respondents

WITH

FIRST APPEAL NO.1035 OF 2016

The State of Maharashtra ...Appellant

Versus

1 .Mohammed Yusuf Ismail since
deceased through his legal heirs
1A-Smt. Latifabi Yusuf Shaikh and
Ors.

...Respondents

...

Ms Tanaya Goswami, AGP for the Appellant -State in both the first
appeals.

Ms Rukmini Khairnar i/b. Mr. P.N. Joshi for the Respondents.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th OCTOBER, 2022.

P.C. :-

1. These appeals assail Judgment and Award dated 31/03/1993 in Land Reference No.134 of 1986 and Land Reference No.148 of 1987 filed by the aforesaid Respondents before the learned District Court at Nashik. By the impugned judgment, the Reference Court has enhanced the compensation awarded by the Land Acquisition Officer to Rs.12.64 per sq.meter.

2. The State had acquired land admeasuring 43 R from Gut No.13 belonging to the Claimant in Land Reference No.134 of 1986 and land admeasuring 2 Hecter 75.3 R from Gut No.5, village-Harsul, owned by the Claimant in Land Reference No.148 of 1987 for the purpose of extension Gaothan. The Notification under Section 4 of the Land Acquisition Act was published in the official gazette dated 12/01/1984 and the Award under Section 11 of the Land Acquisition Act was declared on 12/9/1986. Not being satisfied with the quantum of compensation @ Rs.0.59 per sq.meter offered by the Land Acquisition Officer, the Respondents, who shall be hereinafter referred to as "the Claimants" filed reference under Section 18 of the Land Acquisition Act.

3. The Reference Court relied upon the sale deed dated 19/11/1983 (Exhibit-35) and upon deducting 3/ 4th amount towards advantageous location of the land and further deductions towards area of the land, enhanced the compensation at Rs.12.64 per sq.meter. Being aggrieved by this judgment, the State has filed these appeals.

4. Heard Ms Tanaya Goswami, learned AGP for the

Appellant-State and Ms Rukmini Khairnar, learned counsel for the Claimants. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. It is not in dispute that the acquired land is an agricultural land situated in a remote area. The Reference Court has recorded a finding that there was no development in and around the acquired land. The Claimants had relied upon the Sale Deeds dated 09/03/1978 (Exhibit-28), 19/11/1983 (Exhibit-35) and Sale Deed at Exhibit 37. The Reference Court discarded the Sale Deeds at Exhibits-28 and 37 as not being a comparable sale instance and relying upon the Sale Deed dated 19/11/1987 at Exhibit 35 the Reference Court determined the market rate of the acquired land at Rs.12.64 per sq. meter. The Reference Court has observed that the said Sale Deed was within proximate time of the date of Notification. The said Sale Deed land was situated in the market locality whereas the acquired land was agricultural land in remote locality. Considering the advantageous location and potentiality of the Sale Deed land vis-a-vis the acquired land, the Reference Court deducted 3/4th of the sale price. The Reference Court further deducted 1/4th price of the Sale Deed land towards development charges and

determined the market rate of the acquired land @ Rs.12.64 sq.meter.

6. It may be mentioned that the Claimants in Land Reference No.148 of 1987 had also challenged the impugned Judgment in First Appeal No.100 of 1997. The Division Bench of this Court while dismissing the said appeal vide Judgment dated 16/03/2009 has approved the market rate determined by the Reference Court. Under the circumstances, I do not find any reason to reconsider the assessment made by the Reference Court in fixing the market value of the land @ Rs.12.64 per sq.meter. Hence, both the appeals stand dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)